

**STATE OF MICHIGAN**  
**IN THE SUPREME COURT**

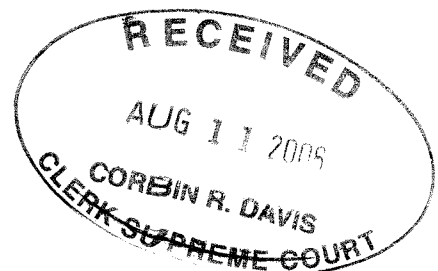
*In re* **REQUEST FOR ADVISORY  
OPINION REGARDING  
CONSTITUTIONALITY OF 2005 PA 71,**

**SC: 130589**

**BRIEF *AMICUS CURIAE* OF  
MICHIGAN HOUSE DEMOCRATIC CAUCUS**

MICHIGAN HOUSE DEMOCRATIC CAUCUS  
Office of the House Minority Leader,  
The Honorable Dianne Byrum  
167 Capitol Building  
Lansing, MI 48909  
(517) 373-0587

Sheila C. Cummings (P64875)  
House Democratic Legal Counsel  
167 Capitol Building  
P.O. Box 30014  
Lansing, MI 48909  
(517) 373-5900



## TABLE OF CONTENTS

	Page
INDEX OF AUTHORITIES.....	ii
STATEMENT OF INTEREST OF AMICUS CURIAE .....	iii
STATEMENT OF JURISDICTION.....	iv
STATEMENT OF JURISDICTION.....	iii
STATEMENT OF QUESTION.....	iv
STATEMENT OF FACTS .....	v
ARGUMENT .....	1
I. STANDARD OF REVIEW .....	1
II. THE COURT LACKS JURISDICTIONAL AUTHORITY TO ISSUE AN ADVISORY OPINION IN THIS MATTER PURSUANT TO THE MICHIGAN CONSTITUTION OF 1963, ART 3, § 8 .....	1
III. EVEN IF THE COURT FINDS JURISDICTION OVER THIS MATTER, THE COURT MUST IGNORE REPRESENTATIVE DEROCHE’S ENTIRE ARGUMENT ALLEGEDLY ON BEHALF OF THE HOUSE OF REPRESENTATIVES BECAUSE HE NEVER POSSESSED AUTHORITY TO SPEAK FOR ANYONE BUT HIMSELF .....	4
A. The Resolution Did Not Give Representative DeRoche Authority To File A Brief On Behalf Of The House .....	4
B. The House Rules Do Not Provide Authority For Representative DeRoche’s Brief In His Capacity As Speaker .....	5
C. The Law Prevents Representative DeRoche From Filing this Brief on Behalf of the Entire House Because One Legislator Has No Authority to Speak An The Entire Legislative Body .....	6
IV. THE SPEAKER IGNORES THE LEGALLY BINDING EFFECT OF ATTORNEY GENERAL OPINIONS ON STATE AGENCIES AND OFFICERS AND THEIR LONG-STANDING, WELL-RESPECTED TRADITION IN MICHIGAN .....	7
A. Attorneys General Have Authority to Issue Binding Opinions and Declare Statutes Unconstitutional On State Agencies and Officers.....	7
B. There is a Long-Standing, Well-Respected Tradition of Attorney General Opinions in the State of Michigan .....	9
CONCLUSION .....	10

## INDEX OF AUTHORITIES

### Cases

Attorney General v Public Service Commission, 243 Mich App 487, 496-497, 625 NW2d 16 (2000)	7
Chmielewski v Xermac, 457 Mich 593, 609, 580 NW2d 817 (1998)	6
City of Detroit v Detroit Edison Company, 475 Mich 109, 115, 715 NW2d 28 (2006)	1
In Re Constitutionality of 1975 PA 227, 395 Mich 148, 150, 235 NW2d 321 (1975)	1
In Re Constitutionality of 1977 PA 108, 402 Mich 83, 86, 260 NW2d 436 (1977)	3
Michigan Beer & Wine Wholesalers Ass'n v Attorney General, 142 Mich App 294, 370 NW2d 328 (1985), cert den 479 U.S. 939 (1986)	8, 9, 10
Mundy v McDonald, 216 Mich 444, 450-451, 185 NW 877 (1921)	7
Phillips v Mirac, Inc., 470 Mich 415, 422, 685 NW2d 174 (2004)	1
Queen Airmotive, Inc v Dep't of Treasury, 105 Mich App 231, 236, 306 NW2d 461 (1981)	9
Silver v. Pataki, 274 A.D.2d 57, 63-64 (2000)	6, 7
Traverse City School Dist v Attorney General, 384 Mich 390, 410, fn 2, 185 NW2d 9 (1971)	9

### Constitutional Provisions

Const 1963, art 4, § 27	2
Michigan Constitution, Const 1963, art 3, § 8	v, 1, 2, 8

### Statutes

MCL 14.32	8
MCL 168.523	vi, 2
MCL 169.224a(1)	iv
MCL 8.3u	3

## **STATEMENT OF INTEREST OF AMICUS CURIAE**

### **MICHIGAN HOUSE DEMOCRATIC CAUCUS**

The Michigan House Democratic Caucus (the “Caucus”) is comprised of the 49 elected Democrats of the Michigan House of Representatives (the “House”). It is recognized as a distinct entity from the House of Representatives as a whole. *See, e.g.*, MCL 169.224a(1) (noting the existence of the Caucus in the Michigan Campaign Finance Act when stating: “A political party caucus of the state house of representatives may maintain 1 house political party caucus committee.”)

The Caucus maintains an interest in this matter through its role as legislators, as well as its overriding role in representing the citizens of the State of Michigan. In 1996, when the original, non-controversial bill was amended to add a photo identification requirement to Section 523, the Caucus opposed the requirement and, thus, voted against the bill. *See House Journal* Dec. 12, 1996, pp. 2506-2507, Roll Call No. 1077. The Caucus maintains the same beliefs as it held at that time: that Section 523, as amended, is unconstitutional because it constitutes an improper burden on the fundamental right to vote.

The Caucus is also interested in this matter because of its concern that the Speaker of the House of Representatives, Craig DeRoche, has impermissibly filed a brief purporting to speak on behalf of the entire House wherein he argues that the photo identification requirement is constitutional. Quite simply, Representative DeRoche did not have authority to file his brief on behalf of the House and, therefore, the Caucus must now bring this misrepresentation to the Court’s attention and distinguish its own arguments and opinions from those belonging solely to Representative DeRoche.

### **STATEMENT OF JURISDICTION**

This Court does not have jurisdiction to issue an advisory opinion on the question presented because the Michigan Constitution 1963, Art. 3, § 8 specifically limits the Supreme Court's authority to issue an opinion as to the constitutionality of legislation to the time period "after [the legislation] has been enacted into law but before its effective date." The photo identification requirement legislation was enacted into law by 1996 PA 583 and became effective March 31, 1997. Neither the subsequent reenactment of the same photo identification requirements in 2005 PA 71 nor the January 27, 1997 Attorney General Opinion operates to change this legislation's effective date of March 31, 1997. Consequently, the time period during which this Court is constitutionally authorized to issue an advisory opinion on this question has expired.

### **STATEMENT OF QUESTION**

1. Do the photo identification requirements of Section 523 of 2005 PA 71, MCL 168.523, on their face, violate either the Michigan Constitution or the United States Constitution?

Michigan House Democratic Caucus answers, “Yes.”

## STATEMENT OF FACTS

On February 22, 2006, the Michigan House of Representatives (the “House”) passed a limited resolution (the “Resolution”) asking this Court to “issue an opinion on the constitutionality of the provisions of 2005 PA 71 that require voters to provide photo identification in order to obtain a ballot.” (House Resolution No. 199, Exh. A). In requesting this opinion, the House relied on the authority of Article III, Section 8 of the Michigan Constitution of 1963 which provides “[e]ither house of legislature or the governor may request the opinion of the supreme court on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effect date.”

On April 26, 2006, this Court issued an order granting a request from the House for an advisory opinion on the constitutionality of the photo identification requirements contained in 2005 PA 71 (the “Order”). In the Order, the Court ordered the Attorney General to issue two separate opinions, one arguing against the constitutionality of the requirement and the other arguing for it. The Order also required all briefs to be filed by July 19, 2006.

On July 19, 2006, House Speaker, State Representative Craig DeRoche filed a brief purporting to be speaking on behalf of the entire House supporting the photo identification requirement, arguing that such a requirement is constitutional and challenging the powers of Michigan’s Attorney General to issue opinions that are binding on the state agencies and officers. Because Representative DeRoche did not seek the authority from nor notify the House of his intention to file his brief,<sup>1</sup> the numerous members of the Michigan House of Representatives, including Republicans and the House Democratic Caucus, were unaware that a

---

<sup>1</sup> On the same day the Representative DeRoche filed his brief, the House Democratic Caucus, along with the Michigan Senate Democratic Caucus and Michigan Legislative Black Caucus, joined Michigan Democratic Party’s Amicus Curiae brief which opposed the photo identification requirement as unconstitutional.

brief was filed purportedly on behalf of the full House at the time of the filing deadline. In fact, to date, Representative DeRoche has never provided a copy of that brief to the House Minority Leader, Dianne Byrum. It was not until a media battle ensued in late July between Representative DeRoche and Attorney General Mike Cox regarding the content of Representative DeRoche's brief did the Democratic Caucus even become aware of the existence of his brief. ("Cox, DeRoche spar over Attorney General's powers", *Assoc Press*, July 28, 2006, attached as Exh. B). Therefore, the Democratic Caucus is compelled to file this brief to address, among other concerns, Representative DeRoche's lack of authority in filing his brief.



## ARGUMENT

### **I. STANDARD OF REVIEW**

When construing a constitutional provision, a court must give the words their plain meaning if they are obvious on their face. *Phillips v. Mirac, Inc.*, 470 Mich 415, 422, 685 NW2d 174 (2004). Issues of constitutional and statutory construction are questions of law that are reviewed de novo. *City of Detroit v. Detroit Edison Company*, 475 Mich 109, 115, 715 NW2d 28 (2006).

### **II. THE COURT LACKS JURISDICTIONAL AUTHORITY TO ISSUE AN ADVISORY OPINION IN THIS MATTER PURSUANT TO THE MICHIGAN CONSTITUTION OF 1963, ART 3, § 8**

The Michigan Constitution, Const 1963, art 3, § 8 expressly provides that:

Either house of the legislature or the governor may request the opinion of the supreme court on important questions of law upon solemn occasions as to the constitutionality of legislation *after it has been enacted into law but before its effective date*. [emphasis added]

This Court's jurisdiction to issue advisory opinions set forth in Const 1963, art 3, § 8 is not plenary but instead is circumscribed. That constitutional provision expressly limits the authority of this Court to issue an advisory opinion by specifying the time period during which this Court may issue such an opinion. That statutorily prescribed window of time begins when the legislation is enacted and ends with that legislation's effective date.

Decisions of this Court have strictly construed the time period during which an advisory opinion may issue. Thus, a request for an advisory opinion that is made during the enactment process itself rather than after the enactment, as the Constitution requires, must be rejected.<sup>2</sup> Similarly, this Court has declined to issue an advisory opinion on the constitutionality of

---

<sup>2</sup> *In Re Constitutionality of 1975 PA 227*, 395 Mich 148, 150, 235 NW2d 321 (1975).

legislation that had an effective date prior to the date of transmittal of senate resolutions requesting an advisory opinion.<sup>3</sup>

That Const 1963, art 3, § 8 should be strictly construed is entirely consistent with the intent of the constitutional provision. As this Court noted in *In Re Constitutionality of 1977 PA 104*:

Article 3, section 8 was an innovation in the 1963 Michigan Constitution, a departure from the historic judicial scheme. It provided for advisory opinions on constitutionality – judgments framed in a factual void – for guidance on "solemn" occasions, at the discretion of the Supreme Court. Clearly, the intent was for sparing resort to this mechanism.

Thus, if the request for an advisory opinion as to the constitutionality of legislation falls outside the window specified in Const 1963, art 3, § 8, this Court will lack the authority to issue an advisory opinion. Yet, even under those circumstances in which the request does conform to the constitutional prerequisites, acceptance of the question by this Court is discretionary. In other words, the Court is not to accept jurisdiction to address the question unless the constitutional requirements are met and even then only if the occasion is so important to the public interest that the Court is compelled to answer.

Looking at the time frame of Section 523, it is clear that this legislation falls outside of the time period allowed for under Const 1963, art 3, § 8 and cannot meet the first constitutional requirement. The effective date of the photo identification requirements of Section 523 was March 31, 1997, which was 90 days after the end of the 1996 legislative session. This is because 1996 PA 583, in which Section 523 is contained, was not given immediate effect. Thus, in accordance with Const 1963, art 4, § 27, the photo identification requirements did not become effective until the "expiration of 90 days from the end of the legislative session at which it was

---

<sup>3</sup> *In Re Constitutionality of 1975 PA 195 and 196*, 395 Mich 642, 236 NW2d 62 (1975).

passed." Neither the subsequent reenactment of those identical photo identification requirements in 2005 PA 71 nor the Attorney General's January 27, 1997 Opinion operates to change that effective date.

As noted in the Order, the House has requested "an advisory opinion on the constitutionality of the photo identification requirements" contained in 2005 PA 71. These photo identification requirements, however, were enacted into law by 1996 PA 583 and became effective March 31, 1997. The same photo identification requirements were then re-enacted in 2005 PA 71.

Because the photo identification requirements are the same, Michigan law requires that 2005 PA 71 should be construed as a continuation of 1996 PA 583 and not as a new enactment. This is specifically set forth in MCL 8.3u that provides:

The provisions of any law or statute which is re-enacted, amended or revised, so far as they are the same as those of prior laws, shall be construed as a continuation of such laws and not as new enactments. If any provision of a law is repealed and in substance re-enacted, a reference in any other law to the repealed provision shall be deemed a reference to the re-enacted provision.

Since 2005 PA 71, insofar as the photo identification requirements are concerned, cannot be construed as a new enactment it follows that the effective date of those photo identification requirements thus corresponds to the effective date of 1996 PA 583 and not 2005 PA 71. The effective date of the photo identification requirements is not January 1, 2007, which is the effective date of 2005 PA 71, but rather March 31, 1997, the effective date of 1996 PA 583.

---

<sup>4</sup> *In Re Constitutionality of 1977 PA 108*, 402 Mich 83, 86, 260 NW2d 436 (1977).

**III. EVEN IF THE COURT FINDS JURISDICTION OVER THIS MATTER, THE COURT MUST IGNORE REPRESENTATIVE DEROCHE'S ENTIRE ARGUMENT ALLEGEDLY ON BEHALF OF THE HOUSE OF REPRESENTATIVES BECAUSE HE NEVER POSSESSED AUTHORITY TO SPEAK FOR ANYONE BUT HIMSELF**

Because Representative DeRoche lacks any authority to file a brief on behalf of the entire House and is merely expressing his own singular opinion, it is requested that the Court disregard DeRoche's brief. In the alternative, and at a minimum, it is requested that the Court read DeRoche's brief as an expression of his own opinions—not the opinions of the Michigan House of Representatives.

**A. The Resolution Did Not Give Representative DeRoche Authority To File A Brief On Behalf Of The House**

Even if this Court finds jurisdiction over this matter, it must disregard the brief filed by State Representative Craig DeRoche. While Representative DeRoche claims to file the brief on behalf of the House of Representatives, he lacks the authority to do so. Nonetheless, Representative DeRoche seems to suggest that the House's Resolution provided that authority. DeRoche first relies on that Resolution for the Court's alleged jurisdiction in his Statement of the Basis of Jurisdiction. (DeRoche's Brief, p. vi). Next, DeRoche alludes to the Resolution in his Statement of Question Presented when he acknowledges that the Court granted the House's request for this advisory opinion on whether "photo identification requirements...violate either the Michigan Constitution or the United States Constitution?" (*Id.*, p. vii). Representative DeRoche then supplies his own answer to the question as follows:

***The Michigan House of Representatives answers "No."***

(*Id.*)(emphasis added). Yet, the Michigan House of Representatives as an entire public body does not agree that the requirement is constitutional.<sup>5</sup> While the Republican-controlled House

voted to approve the Resolution requesting the advisory opinion, the Resolution does not even remotely authorize Representative DeRoche to then file a brief in answer to the question. Indeed, DeRoche cannot even demonstrate that he has obtained authorization from his Republican colleagues in the House to file a brief on their behalf. The Resolution adopted on February 22, 2006 merely asks this Court to “issue an opinion on the constitutionality of the provisions of 2005 PA 71 that require voters to provide photo identification in order to obtain a ballot.”

**B. The House Rules Do Not Provide Authority For Representative DeRoche’s Brief In His Capacity As Speaker**

The role of a Speaker for the Michigan House of Representatives is created and provided for in the Standing Rules of the Michigan House of Representatives as adopted for the 2005-2006 session, 93<sup>rd</sup> Legislature (the “House Rules”). Nothing in those House Rules give the Speaker authority to represent the House in any judicial proceedings. In fact, the Speaker’s powers as derived from the House Rules are merely administrative and include appointing committee chairs, allocating staff, and expediting or impeding action on bills. Specifically, the following, while not exhaustive, is illustrative of the Speaker’s powers and duties under the House Rules:

The Speaker, or the designee of the Speaker, shall take the Chair each day at the hour to which the House “shall have adjourned or recess.” The Presiding Officer shall call the House to order and lead the Members in reciting the Pledge of Allegiance and, except in the absence of a quorum, shall proceed to business in the manner prescribed in these rules. (House Rule 5)

The Presiding Officer shall preserve order and decorum; may speak to points of order, rising for that purpose; and shall decide questions of order, subject to an appeal of the House. When two or more members rise at once, the Presiding officer shall name the Member who is first to speak. (House Rule 6)

---

<sup>5</sup> As previously stated, the Democratic Caucus joined Michigan Democratic Party’s brief opposing a photo identification requirement. Therefore, the Speaker has misrepresented the House’s position to the Court.

Payment to all persons, authorized under paragraphs (2), (3) and (4) to expend House funds for transportation, lodging, meals, registration fees and related items, shall be made in accordance with an established set of expenditure regulations as predetermined and prepublished to Members by the Speaker. (House Rule 7)

The Speaker shall appoint all committees, except where the House shall otherwise order. (House Rule 8)

Except as otherwise provided in these rules, the Speaker, or the Speaker's designee, shall appoint all employees of the House. (House Rule 9)

As these duties dictate and as the House Rules appropriately refer to this position, the Speaker is the "Chief Administrator" of the House. *See* House Rule 7. In other words, he is a legislative officer. That role, however, does not extend beyond the walls of the legislature. It also does not designate the Speaker as a spokesperson for the entire House to the general public and certainly not the Courts.

**C. The Law Prevents Representative DeRoche From Filing this Brief on Behalf of the Entire House Because One Legislator Has No Authority to Speak An The Entire Legislative Body**

Because Representative DeRoche lacked authority to file his Brief on behalf of the entire House of Representatives, he merely filed a brief espousing his own opinions. Indeed, the appellate courts of this state have upheld the premise that a single legislator's opinion cannot be deemed to be representative of the entire legislature. *E.g., Chmielewski v Xermac*, 457 Mich 593, 609, 580 NW2d 817 (1998). Representative DeRoche cannot circumvent the logic of that case law by filing a brief in his capacity as the Speaker. *See, e.g., Silver v. Pataki*, 274 A.D.2d 57, 63-64 (2000)(denying standing to a Speaker who failed to first obtain authorization from or a request by the legislature).

Therefore, it is respectfully requested that this Court reject the written arguments offered by Representative DeRoche on behalf of the Michigan House of Representatives for the reason

that he exceeded his authority as Speaker and as a State Representative. At the very least, the Court should only read DeRoche's opinions as his own—not of those held by the entire House.

**IV. THE SPEAKER IGNORES THE LEGALLY BINDING EFFECT OF ATTORNEY GENERAL OPINIONS ON STATE AGENCIES AND OFFICERS AND THEIR LONG-STANDING, WELL-RESPECTED TRADITION IN MICHIGAN**

Although veiled in a lengthy footnote, Representative DeRoche devotes approximately two pages of his brief to challenge the nature and extent of the Attorney General's powers. Initially, DeRoche claims it is a misconception that an Attorney General has the authority to “veto” legislation by declaring it unconstitutional. (DeRoche's Brief, pp. 3-4). Next, he disputes well-established law holding that Attorney General Opinions are binding on state agencies and officers. *Id.* While the Caucus understands the issue of attorneys general power is not currently before the Court (nor does the Caucus believe it is appropriate or necessary for this Court to determine such an issue at this time), it is important to briefly examine the legal ramifications and valuable tradition of attorney general opinions in light of the Speaker's reckless examination of the topic.

**A. Attorneys General Have Authority to Issue Binding Opinions and Declare Statutes Unconstitutional On State Agencies and Officers**

As the state's largest public law firm, the Michigan Department of Attorney General provides its governmental clients a full range of legal services. These legal services include representation before courts and administrative agencies, rendering legal opinions and providing legal advice to a principal executive department or state agency. *Attorney General v Public Service Commission*, 243 Mich App 487, 496-497, 625 NW2d 16 (2000). The Attorney General's powers and duties are derived from both statutory and common law. *Mundy v McDonald*, 216 Mich 444, 450-451, 185 NW 877 (1921).

MCL 14.32 requires the Attorney General “to give his opinion upon all questions of law submitted to him by the legislature...or any other state officer.” Courts have previously held that these opinions do not impermissibly venture into the legislative arena, nor invade the province of the courts. *Michigan Beer & Wine Wholesalers Ass’n v Attorney General*, 142 Mich App 294, 370 NW2d 328 (1985), cert den 479 U.S. 939 (1986). Despite Representative DeRoche’s suggestion that they are meant to be advisory, Michigan’s appellate courts have held the opinions to be binding on state agencies and officers. *Michigan Beer & Wine Wholesalers Ass’n*, 142 Mich App at 300-301. In fact, *Michigan Beer & Wine Wholesalers* cuts into the heart of DeRoche’s argument because not only does the court in this case directly hold that opinions are binding but it affords the Attorney General the authority to declare a statute unconstitutional.

In that case, plaintiffs sued the Attorney General after he held liquor control regulations unconstitutional. *Michigan Beer & Wine Wholesalers Ass’n*, 142 Mich App at 300-301. Specifically, in 1975 the Michigan Liquor Control Commission promulgated various rules that either prohibited or restricted price and brand advertising of liquor by manufacturers, wholesalers, etc. *Id.* at 297. In 1979, Representative Richard Fitzpatrick requested an AG opinion on the constitutionality of these Liquor Control Commission rules. *Id.* at 297-298. The Attorney General found that the rules were invalid both as an improper exercise of the state’s police power and as an unconstitutional restraint on the freedom of commercial speech guaranteed by the First and Fourteenth Amendments to the United States Constitution and article 1, § 5 of the Michigan Constitution of 1963. *Id.* at 298.

Plaintiffs argued the Attorney General exercised powers belonging to the legislative and judicial branch of government. While the circuit court agreed with the plaintiffs, the court of appeals reversed stating “[w]hile such opinions do not have the force of law, and are therefore



not binding on courts, *they have been held to be binding on state agencies and officers.*” *Michigan Beer & Wine Wholesalers Ass’n*, 142 Mich App at 300-301 (emphasis added), *citing Traverse City School Dist v Attorney General*, 384 Mich 390, 410, fn 2, 185 NW2d 9 (1971) (Attorney General opinion commands the allegiance of state agencies); *Queen Airmotive, Inc v Dep’t of Treasury*, 105 Mich App 231, 236, 306 NW2d 461 (1981)(Attorney General opinion is binding on Department of Treasury until reversed by court).

The court in *Michigan Beer & Wine* further found that an Attorney General is required to review a statute or rule under the appropriate constitutional standards and, thus, issue an opinion on its constitutionality. *Michigan Beer & Wine Wholesalers Ass’n*, 142 Mich App at 301. Finally, the court held that Attorney General opinions are legally binding on state agencies and officers unless reversed by the courts. *Michigan Beer & Wine Wholesalers Ass’n*, 142 Mich App at 300-302.

**B. There is a Long-Standing, Well-Respected Tradition of Attorney General Opinions in the State of Michigan**

There has been a long-standing tradition in the State of Michigan for the Attorney General to issue opinions. In fact, the duty to issue opinions was originally codified in statute back in 1846. Thus, for 160 years, the Office of Attorney General has provided valuable and reliable guidance for public servants and the general public on the meaning and application of law. Since that time, that office has issued literally thousands of opinions. These opinions are utilized by state agencies and municipalities across the State who rely on them to carry out their duty in a consistent manner. Allowing one office in the State to issue these opinions creates efficiency in guiding all state agencies and officers.

The binding effect of an Attorney General opinion limits the liability of a state agency or officer who may otherwise act in violation of a law. Therefore, the binding effect helps to

mitigate unnecessary and costly litigation expenses. Further, if the opinions do not carry a binding effect, there will potentially be different interpretations of statutes and regulations from municipality to municipality causing frustration, confusion and delay. For example, business entities and individuals would not know how to conduct business from one municipality to the next.

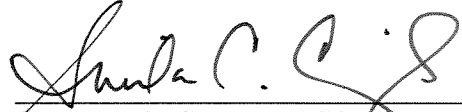
It appears that Representative DeRoche recognizes the value of requesting opinions from the Attorney General. According to Attorney General Mike Cox, DeRoche requested an opinion from the Attorney General regarding the extent of the Governor's veto authority. ("Cox to Speaker: Hands Off AG's Constitutional Powers", Attorney General Press Release dated July 28, 2006, attached as Exh. C). Further, DeRoche's Floor Leader, Representative Chris Ward, has requested seven opinions from the Office of Attorney General. *Id.*

### **CONCLUSION**

For the reasons stated herein, the Democratic Caucus respectfully requests the Court dismiss this advisory matter because the Court lacks jurisdiction over it. However, if the Court finds jurisdiction, the Caucus requests that the Court disregard the Speaker's brief or, in the alternative, read his brief merely as an expression of his own opinions because he did not have the authority to file the brief on behalf of the entire House.

Respectfully submitted,

MICHIGAN HOUSE DEMOCRATIC CAUCUS

By:   
SHEILA C. CUMMINGS (P64875)

Attorney for House Democratic Caucus  
167 Capitol Building  
P.O. Box 30014  
Lansing, MI 48909  
(517) 373-5900

Dated: August 11, 2006

LALIB:143553.1\099999-90030